

16-6a-1416. Receivership or custodianship.

(1) (a) A court in a judicial proceeding brought to dissolve a nonprofit corporation may appoint:

(i) one or more receivers to wind up and liquidate the affairs of the nonprofit corporation; or

(ii) one or more custodians to manage the affairs of the nonprofit corporation.

(b) Before appointing a receiver or custodian, the court shall hold a hearing, after giving notice to:

(i) all parties to the proceeding; and

(ii) any interested persons designated by the court.

(c) The court appointing a receiver or custodian has exclusive jurisdiction over the nonprofit corporation and all of its property, wherever located.

(d) The court may appoint as a receiver or custodian:

(i) an individual;

(ii) a domestic or foreign corporation authorized to conduct affairs in this state;

or

(iii) a domestic or foreign nonprofit corporation authorized to conduct affairs in this state.

(e) The court may require the receiver or custodian to post bond, with or without sureties, in an amount specified by the court.

(2) The court shall describe the powers and duties of the receiver or custodian in its appointing order that may be amended from time to time. Among other powers the receiver shall have the power to:

(a) dispose of all or any part of the property of the nonprofit corporation, wherever located:

(i) at a public or private sale; and

(ii) if authorized by the court; and

(b) sue and defend in the receiver's own name as receiver of the nonprofit corporation in all courts.

(3) The custodian may exercise all of the powers of the nonprofit corporation, through or in place of its board of directors or officers, to the extent necessary to manage the affairs of the nonprofit corporation in the best interests of its members and creditors.

(4) If doing so is in the best interests of the nonprofit corporation and its members and creditors, the court may:

(a) during a receivership, redesignate the receiver as a custodian; and

(b) during a custodianship, redesignate the custodian as a receiver.

(5) The court from time to time during the receivership or custodianship may order compensation paid and expense disbursements or reimbursements made from the assets of the nonprofit corporation or proceeds from the sale of the assets to:

(a) the receiver;

(b) the custodian; or

(c) the receiver's or custodian's attorney.

Enacted by Chapter 300, 2000 General Session